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CLERK, U.S. DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA
BY: DEPUTY

KAREN P. HEWITT
United States Attorney
TOM STAHL, California State Bar No. 78291
Assistant United States Attorney
Chief, Civil Division
LAUREN M. CASTALDI
Trial Attorneys, Tax Division
U.S. Department of Justice
P.O. Box 683, Ben Franklin Station
Washington, D.C. 20044-0683
Telephone: (202) 514-9668
Facsimile: (202) 307-0054
E-mail: lauren.m.castaldi@usdoj.gov
Attorneys for the United States of America

IN THE UNITED STATES DISTRICT COURT

FOR THE SOUTHERN DISTRICT OF CALIFORNIA

CLAYTON BLEHM, dba FDC INVESTMENTS, INC. Plaintiff, v. BETSY MCINTYRE, an individual; QUICKSILVER, INC., a Delaware Corporation; and DOES1-50, inclusive, Defendants.	Case No. '08 CV 1358 BTM NLS NOTICE OF REMOVAL Removed from San Diego County, California Superior Court Case No. 37-2008-00084761-CU-FR-CTL

TO THE CLERK OF THE UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF CALIFORNIA:

PLEASE TAKE NOTICE that defendant Elizabeth ("Betsy") McIntyre, and the United States, hereby remove the above-captioned action from the California Superior Court in San Diego County to the

United States District Court for the Southern District of California pursuant to 28 U.S.C. § 1442(a)(1).

The grounds for removal are as follows:

1. On May 28, 2008, a civil action designated as a Complaint For Damages Fraud and Conspiracy was filed in the California Superior Court for the County of San Diego (a copy of the complaint is attached).

2. In the civil action, the plaintiff Clayton Blehm alleges that an employee of the Internal Revenue Service, Betsy McIntyre, conspired with defendant Quicksilver, Inc. to shift employment tax liabilities to the plaintiff personally, and relieve the corporation, DC Shoes, Inc. of employment tax liabilities. The plaintiff also alleges that defendants McIntyre and Quicksilver, Inc. fraudulently failed to disclose an alleged settlement between the parties regarding certain employment tax liabilities. Additionally, the plaintiff alleges that defendants McIntyre and Quicksilver, Inc. fraudulently defrauded the plaintiff of his share of the corporation, DC Shoes, Inc. The plaintiff seeks damages for the alleged violations.

3. The plaintiff 's claim against Betsy McIntyre, an officer of the Internal Revenue Service, is for acts that occurred in her official capacity as an employee of the United States in connection with the collection of revenue. Therefore, the case is removed to this Court as a matter of right pursuant to 28 U.S.C. § 1442(a)(1).

4. Betsy McIntyre has not been served in this action. Neither the United States Attorney's Office for the Southern District of California nor the United States Attorney General has received or been served a Summons or Complaint from the Plaintiff in the above-captioned action. The Department of Justice received notice of this action from the Internal Revenue Service on or about June 26, 2008. As proper service was not effected in this action, this Notice has been filed timely. See 28 U.S.C. § 1446; Murphy Bros v. Michetti Pipe Stringing, 526 U.S. 344, 255 (1999). By filing this Notice, the United States and Betsy McIntyre do not waive any defenses listed in Fed. R. Civ. P. 12, including the right to receive proper service of process.

5. This action may be removed to this Court without bond by virtue of the provisions of 28 U.S.C. Section 2408(a) because the United States has initiated this removal.

6. A copy of this notice shall be promptly filed with the San Diego County Superior Court and served upon all parties.

7. A copy of all pleadings received by the United States is attached hereto.

DATED this 24th day of July, 2008.

KAREN P. HEWITT
United States Attorney

TOM STAHL
Assistant United States Attorney
Chief, Civil Division

LAUREN M. CASTALDI
Trial Attorneys, Tax Division
U.S. Department of Justice
Attorneys for the United States of America

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 24th day of July, 2008, I mailed by U.S. Postal Service the foregoing NOTICE OF REMOVAL OF STATE ACTION TO FEDERAL DISTRICT COURT to the following:

Roy Withers, Esq.
Law Offices of Roy R. Withers
2802 Juan Street, Suite 12
San Diego, CA 92110

Molly J. Magnuson
O'Melveny & Myers LLP
610 Newport Center Dr, 17th Floor
Newport Beach, California 92660

LAUREN M. CASTALDI
Trial Attorney, Tax Division
U.S. Department of Justice

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CENTRAL DIVISION

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CLERK-SUPERIOR COURT
SAN DIEGO COUNTY, CA

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Roy R. Withers, Esq.
Law Office of Roy R. Withers
2802 Juan Street, Suite 12
San Diego, California 92110
Telephone: (619) 295-1305
Fax: (619) 297-9036

Attorney for Plaintiff, Clayton Blehm dba FDC Investments, Inc.,

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF SAN DIEGO

CENTRAL DIVISION

CLAYTON BLEHM, dba FDC INVESTMENTS, INC.

Plaintiff,

v.

BETSY MCINTYRE, an individual;

QUIKSILVER, INC., a Delaware Corporation;

and DOES 1-50, inclusive,

Defendants

Case No.: 37-2008-00084761-CU-FR-CTL

COMPLAINT FOR DAMAGES FRAUD AND CONSPIRACY

ALLEGATIONS COMMON TO ALL CAUSES OF ACTION

BACKGROUND

1. Plaintiff, CLAYTON BLEHM, is and at all times herein mentioned, was a resident of San Diego County.

5-12-12968

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2. Defendant, **BETSY MCINTYRE**, at all times herein mentioned, was an employee auditor of the Internal Revenue Service (IRS), and at all significant times herein mentioned was acting outside the scope of her employment with that agency. **BETSY MCINTYRE** worked on both civil and criminal matters.

3. Defendant sued herein as **QUIKSILVER, INC.** is a Delaware Corporation authorized to do business in the State of California, and was so at all times herein mentioned.

4. Plaintiff is ignorant of the true names and capacities of the Defendants sued herein as **DOES 1-11**, inclusive. These **DOES** are **"JOHN and JANE DOES"**, each working at the relevant times mentioned herein, at the IRS Appeals Office in San Diego, California. Plaintiff will amend this complaint to allege their true names and capacities when ascertained.

5. Plaintiff is ignorant of the true names and capacities of the Defendants sued herein as **DOES 12-50**, inclusive, and therefore sues these Defendants by such fictitious names. Plaintiff will amend this complaint to allege their true names and capacities when ascertained.

THE SALE OF DC SHOES, INC. TO BILLABONG, INC.

6. Plaintiff, **CLAYTON BLEHM**, is, and at all times relevant herein, a Certified Public Accountant (CPA). For a number of years, he was the Chief Financial Officer (CFO) and a member of the Board of Directors of DC Shoes, Inc. (hereinafter, 'DC Shoes'), utilizing his personal services corporation, **FDC INVESTMENTS, INC.** Additionally, Plaintiff, **CLAYTON BLEHM** dba **FDC INVESTMENTS, INC.**, was a thirty percent (30%) shareholder in DC Shoes.

7. On or about 1999, Plaintiff, **CLAYTON BLEHM** and other DC Shoes owners spent part of two days meeting with Defendant, **QUIKSILVER, INC.** regarding research done by Eric Blehm (recommending **QUIKSILVER, INC.** as the number one suitor to buy or merge with DC Shoes). There was no deal at that time, but Defendant, **QUIKSILVER, INC.** extended the value of 60 to 70 million dollars (for DC Shoes), which Plaintiff,

CLAYTON BLEHM, felt was not of interest, and all parties decided to re-contact each other in the future.

8. In March of 2002, co-owner of DC Shoes (Damon Block), forwarded an unsolicited email to Plaintiff, **CLAYTON BLHEM**, received from Matthew Perrin, CEO of Billabong, Inc. (hereinafter, 'Billabong'), expressing an interest in buying DC Shoes.

9. On or about April of 2002, Plaintiff, **CLAYTON BLEHM**, on behalf of DC Shoes, began negotiations with Billabong CEO, Matthew Perrin, after informing Matthew of the IRS audit and possible assessments in millions (as will be described hereinafter). Matthew Perrin was unconcerned and began due diligence on or about mid April 2002.

10. On June 4, 2002, the sale of DC Shoes to Billabong was finalized.

11. On or about June 5, 2002, Plaintiff, **CLAYTON BLEHM**, flew to Pusan, Korea to meet Billabong factory management to introduce them to DC Shoes' Korea Corporation (owned 50% by DC Shoes personnel and 50% by Korean personnel).

12. Plaintiff, **CLAYTON BLEHM**, then flew to Hong Kong to meet with Billabong sourcing operation people to review facilities and consider feasibility of sharing their housing with DC Shoes Hong Kong Corporation (recently formed by Plaintiff, **CLAYTON BLEHM**, to handle all international sales and supervision of Korea and China DC Shoes' activities). After Hong Kong, Plaintiff then flew to Beijing, China with DC Shoes' International Sales Manager, Jim Bartholet, to plan ahead for an aggressive DC Shoes sales campaign to begin meeting targets and additional value incentives offered by Billabong, which Plaintiff, **CLAYTON BLEHM** believed would make the Billabong deal worth an ultimate 300 million dollars to DC Shoes owners and employees.

13. On or about late June of 2002, Plaintiff, **CLAYTON BLEHM** scheduled July 1, 2 and 3 for meetings with Billabong at DC Shoes to finalize paperwork on the Billabong transaction. They set a goal for a closing date of July 15, 2002.

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IRS INVESTIGATION OF DC SHOES

14. Defendant, **BETSY MCINTYRE**, worked on the DC Shoes matter for approximately two (2) years. Defendant, **BETSY MCINTYRE**, dealt with both the criminal and civil matters in her work as an auditor of the IRS.

15. On or about 2001, the IRS initiated an audit of DC Shoes (regarding tax returns for 1998, 1999 and 2000) because retained earnings had reached 10 million dollars.

16. About that same time, Plaintiff, **CLAYTON BLEHM** (as CFO of DC Shoes) hired attorney Clancy Wilson to represent DC Shoes and Plaintiff, **CLAYTON BLEHM** in conjunction with the ongoing IRS audit.

17. As a result of the audit in 2001, the IRS re-classified Plaintiff, **CLAYTON BLEHM**, as an employee of DC Shoes, rather than working under a management contract through Plaintiff's personal services corporation, **FDC INVESTMENTS, INC.**

18. During Defendant, **BETSY MCINTYRE'S** investigation of DC Shoes, the IRS found fault with DC Shoes' failure to withhold payroll taxes on money that had been paid to Plaintiff, **CLAYTON BLEHM**, through his personal services corporation, **FDC INVESTMENTS, INC.** This resulted in a claim on or about April of 2002, in which the IRS said DC Shoes owed 1.8 million dollars, plus penalties and interest, for failure to withhold taxes on money paid to Plaintiff, **CLAYTON BLEHM**, through his corporation.

19. As of January 1, 2002, Plaintiff, **CLAYTON BLEHM** began working as an employee of DC Shoes, at the suggestion of both Clancy Wilson and his attorney.

TERMINATION OF CLAYTON BLEHM

20. On or about late June of 2002, Donna Kokinelis, DC Shoes' controller, informed Plaintiff, **CLAYTON BLEHM** before his return from China, that DC Shoes' other owners, Kenneth Block and Damon Way, wanted to meet with him on Sunday morning (June 30, 2002) upon his return to the United States on June 29, 2002. Plaintiff, **CLAYTON BLEHM**, suggested meeting at DC Shoes on Monday morning before Billabong's arrival, but Kenneth Block and Damon Way insisted on the Sunday meeting.

21. Plaintiff, **CLAYTON BLEHM**, arrived at the Four Seasons Carlsbad on Sunday morning, June 30, 2002, and was surprised to be met with hostility from both Kenneth Block and Damon Way, who accused Plaintiff of bringing the IRS down on DC Shoes. They summarily terminated Plaintiff and instructed him not to show up at DC Shoes anymore.

22. Plaintiff, **CLAYTON BLEHM** inquired about Billabong's plans with this new development and Kenneth Block, retorted that they (Billabong) "told us to get rid of you because they don't want to work with you". Blehm later learned that DC Shoes' other owners, Kenneth Block and Damon Way, had met with Matthew Perrin of Billabong on the evening of Saturday, June 29, 2002 to discuss the plan over dinner.

23. Unbeknownst to Plaintiff, **CLAYTON BLEHM**, and totally without his knowledge, once he was severed from DC Shoes, the sale to Billabong fell apart (the deal supposedly fell through when Matthew Perrin was terminated from Billabong for purportedly dumping most of his stock on the Australian market in one day and driving the stock down 14 points). It should be noted, that in doing its due diligence, Billabong had required that a sum be set aside in the amount of three million dollars to take care of the tax liability of DC Shoes and Plaintiff, **CLAYTON BLEHM**, which might be attached to DC Shoes. This was a result of their due diligence.

24. Subsequent to Plaintiff, **CLAYTON BLEHM'S** severance, after the proposed sale of Billabong fell through, Defendant, **QUIKSILVER, INC.** stepped in to replace Billabong as the new purchasers of DC Shoes.

25. Plaintiff, **CLAYTON BLEHM**, is informed and believes, and thereon alleges, that Defendant, **QUIKSILVER, INC.** was acting in concert with IRS agents and Defendant, **BETSY MCINTYRE**, for the purposes of expediting the **QUIKSILVER, INC.** transaction to the detriment of Plaintiff, **CLAYTON BLEHM**.

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CLAYTON BLEHM v. DC SHOES AND BILLABONG

26. After his termination on June 30, 2002, Plaintiff, CLAYTON BLEHM and his corporation, FDC INVESTMENTS, INC., filed a lawsuit on October 2, 2002 (after it was apparent that the Billabong deal was dead), for wrongful termination against DC Shoes and Billabong.

27. On August 20, 2003, DC Shoes and Plaintiff, CLAYTON BLEHM, entered into a Settlement Agreement whereby Plaintiff, CLAYTON BLEHM, was paid approximately one third (1/3) of the true value of his stock. DC Shoes assumed sole responsibility for paying Plaintiff's withholding taxes. Unbeknownst to Plaintiff, CLAYTON BLEHM, and concealed from him at the time, was the fact that a month before, DC Shoes and the IRS had agreed under Section 3509 of the IRS code that DC Shoes would be relieved of any requirement to pay the employment taxes, the net effect of which would shift the taxes to Plaintiff, CLAYTON BLEHM, personally.

28. Also concealed from Plaintiff, CLAYTON BLEHM at the signing of the Settlement Agreement, was the fact that DC Shoes had already contracted with the Sage Investment Banking Group to handle the sale of DC Shoes. Plaintiff, CLAYTON BLEHM, first found out about the 3509 agreement consummated a month before the Settlement Agreement, in testimony by Clancy Wilson at the trial against DC Shoes in January of 2008. This is the first time Plaintiff was made aware of what had happened.

QUIKSILVER, INC.

29. On January 2004, Defendant, QUIKSILVER, INC. entered into an agreement to buy DC Shoes and noticed the deal to Plaintiff, CLAYTON BLEHM, for approval. Plaintiff, CLAYTON BLEHM signed the approval again presuming that DC Shoes would pay the employment taxes as promised in the August, 2003 Settlement Agreement. A modification was also sent to Plaintiff, CLAYTON BLEHM, which eliminated Plaintiff's last minute control of the transfer of his stock at the closing of the QUIKSILVER, INC. transaction (scheduled for late April 2004).

30. Unbeknownst to Plaintiff at the time of closing, was the fact that DC Shoes had, in early April of 2004, already received the final assessment under the 3509 agreement with the IRS which confirmed for the benefit of DC Shoes and **QUIKSILVER, INC.** that DC Shoes would not pay the employment taxes promised in the August 2003 Settlement Agreement.

31. Also unbeknownst to Plaintiff, **CLAYTON BLEHM**, at the time of closing of the **QUIKSILVER, INC.** transaction, was the fact that Plaintiff, **CLAYTON BLEHM'S** attorneys, Sheppard, Mullin, Richter and Hampton, had become suspicious of DC Shoes and Defendant, **QUIKSILVER, INC.'S** intentions only days before closing and attempted to obtain a confirmation that DC Shoes would indeed pay the employment taxes (later assessed against Plaintiff) once they received Plaintiff, **CLAYTON BLEHM'S** stock at closing.

32. Plaintiff learned later that DC Shoes had refused to confirm that request before closing, and even days after the closing. None of this was conveyed to Plaintiff, **CLAYTON BLEHM**, until late 2004, when DC Shoes formally refused to pay the employment taxes. Thus, DC Shoes and **QUIKSILVER, INC.** got Plaintiffs stock and as previously planned, harmed Plaintiff, CLAYTON BLEHM, by making him personally liable for the taxes.

33. Defendant, **QUIKSILVER**, INC. specified that it required DC Shoes' 2003 audited financial statement before the closing. Defendant, **QUIKSILVER, INC.** knew the plan to harm Plaintiff, **CLAYTON BLEHM**, from the beginning. It had waited until the final IRS levy against DC Shoes in early April 2004 to make sure that the Auditors of DC Shoes did not discover the wrong doings against Plaintiff, **CLAYTON BLEHM**, because it would have disclosed them in any notes to the 2003 Audit Report completed and delivered in 2004.

34. Both DC Shoes and particularly Defendant, **QUIKSILVER, INC.** had a duty to inform Plaintiff of the 3509 confirmation before the close of escrow and transfer of the **CLAYTON BLEHM** stock. Also of note is the fact that **QUIKSILVER, INC.** was so

intent on protecting itself, that the final checks to Plaintiff, **CLAYTON BLEHM**, in the approximate amount of 10.5 million dollars were made by **QUIKSILVER, INC.** directly to Plaintiff, **CLAYTON BLEHM** through his attorneys and deposited by **CLAYTON BLEHM'S** attorneys, Sheppard, Mullin, Richter and Hampton, such that Plaintiff, **CLAYTON BLEHM** never saw the checks and learned of Defendant, **QUIKSILVER, INC.'S** direct payment to him until Plaintiff's own investigations beginning in late 2004.

35. The paper trail essentially shows that Defendant, **QUIKSILVER, INC.** really bought Plaintiff, **CLAYTON BLEHM'S** shares at one third (1/3) of the price paid to Kenneth Block and Damon Way in a simultaneous transaction, while fully knowing that Plaintiff was being harmed not only in receiving the far lesser value of his stock, but also knowing that he would be further cheated by DC Shoes' intention to breach its promise in the Settlement Agreement to assume sole responsibility for payment of the **CLAYTON BLEHM** employment taxes. Clancy Wilson's testimony at the 2008 trial is the first absolute proof of this overall conspiracy.

36. Plaintiff, **CLAYTON BLEHM** believes and alleges that on or about July of 2003, Defendants, **BETSY MCINTYRE and/or DOES 1-11** and **QUIKSILVER, INC.**, agreed, in concert, on a course of action regarding the claim that the IRS had against DC Shoes, and ultimately, Plaintiff, **CLAYTON BLEHM**, all confirmed by Clancy Wilson's testimony at the January, 2008 trial.

37. The agreement between Defendants, **BETSY MCINTYRE and/or DOES 1-11** and **QUIKSILVER, INC.**, was that Defendants, **BETSY MCINTYRE and/or DOES 1-11**, would allow the purchase of DC Shoes to occur by Defendant, **QUIKSILVER, INC.**, and subsequently lay the blame for the liability that resulted from any audit at the feet of DC Shoes' (former) CFO, Plaintiff, **CLAYTON BLEHM**, also a Director of DC Shoes, until August 20, 2003.

38. Further, the parties agreed that they would not disclose information to Plaintiff, **CLAYTON BLEHM**, who at that time was still a Director of DC Shoes, and a thirty percent (30%) shareholder in DC Shoes, via Plaintiff's personal services corporation,

FDC INVESTMENTS, INC.

39. Neither Defendants, **BETSY MCINTYRE** and/or **DOES 1-11**, nor has the IRS ever found fault or liability on the part of Plaintiff's corporation, **FDC INVESTMENTS, INC.**, the recipient of purported income taxable as 'employee salary'.

IRS ACTION AGAINST PLAINTIFF, CLAYTON BLEHM

40. Plaintiff's accountant, Mr. Stephen Hawkins, was advised in 2002, that there was a criminal investigation of Plaintiff, **CLAYTON BLEHM** being conducted.

41. On October 2, 2002 Plaintiff, **CLAYTON BLEHM**, amended all relevant tax returns of **CLAYTON BLEHM** and **FDC INVESTMENTS, INC.** to conform with IRS determination regarding Plaintiff's employment with DC Shoes, fully expecting that DC Shoes would ultimately be required to pay his withholding taxes demanded in the April 2002 IRS claim served on DC Shoes.

42. On or about October of 2004, Defendant, **BETSY MCINTYRE**, appeared in Mr. Hawkins' office to discuss Plaintiff, **CLAYTON BLEHM**. **BETSY MCINTYRE** advised Mr. Hawkins that she was there as a civil agent. She claimed that she had good news, and bad news. The bad news, Defendant, **BETSY MCINTYRE** explained was that DC Shoes had settled its case with IRS Appeals using Section 3509, so there would be "no withholding credits" for Plaintiff, **CLAYTON BLEHM**.

43. When Steve Hawkins told her he really didn't care since DC Shoes was responsible for the taxes anyhow, Defendant, **BETSY MCINTYRE** then dropped the other shoe: She said, 'Well, I'm not happy with how this case went. DC Shoes should have got nailed for more money, and your client (Plaintiff, **CLAYTON BLEHM**) should have had criminal charges filed. Since I didn't get either of those, then I am going to charge your client, Plaintiff, **CLAYTON BLEHM**, with civil fraud penalties. Don't even ask me to reconsider, because I won't.'

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I.
FIRST CAUSE OF ACTION
FRAUD

44. Plaintiff hereby incorporates paragraphs 1-43 of the ALLEGATIONS COMMON TO ALL CAUSES OF ACTIONS.

45. On or about July of 2003, Defendants, **BETSY MCINTYRE** and Co-Defendant, **QUIKSILVER, INC.**, failed to disclose to Plaintiff, **CLAYTON BLEHM**, that they had reached a settlement in the IRS/DC Shoes matter. At this time, Plaintiff, **CLAYTON BLEHM** was a member of the Board of Directors of DC Shoes and a thirty percent (30%) shareholder through his personal services corporation, **FDC INVESTMENTS, INC.**

46. Had Plaintiff, **CLAYTON BLEHM**, been aware of the agreement between Defendants, **BETSY MCINTYRE** (ostensibly representing the IRS) and **QUIKSILVER, INC.**, he would not have allowed the sale to transpire with Defendant, **QUIKSILVER, INC.**, until Plaintiff was held harmless, as he believed he was, by Plaintiff's agreement with DC Shoes, signed on August 20, 2003.

47. It was only the agreement with DC Shoes, in which DC Shoes agreed to assume any IRS liability on the part of Plaintiff, **CLAYTON BLEHM**, which led him to be secure in the knowledge that he would be covered, even if the results of the IRS audit were to reveal tax liability.

48. Defendants, and each of them, in failing to disclose the results of the agreement with Plaintiff, **CLAYTON BLEHM**, acted fraudulently and with malice, knowingly and willfully.

49. The failure to represent the aforementioned facts to Plaintiff, **CLAYTON BLEHM**, and disclose information, and the suppression of information herein alleged, were made, and failed to have been made with the intent to induce Plaintiff, **CLAYTON BLEHM**, to act in the manner herein alleged, in reliance thereon. Plaintiff, **CLAYTON BLEHM**, never would have allowed the sale of his stock to Defendant, **QUIKSILVER, INC.**, without a 'hold harmless' provision that he was sure was enforceable in the IRS matter.

50. Once again, without Plaintiff's knowledge, Defendant, **BETSY MCINTYRE**, in excess of authority, made an agreement with Defendant, **QUIKSILVER, INC.**, and DC Shoes, to allow the utilization of IRC Section 3509 for the purpose of imposing minimal liability on the part of DC Shoes, as a result of an IRS audit, with the plan that the sale with Defendant, **QUIKSLIVER, INC.**, would take place and liability would subsequently be imposed on shareholder/**FDC INVESTMENTS, INC.** and/or, Plaintiff, **CLAYTON BLEHM.**

51. Further this agreement occurred before the contract with Defendant, **QUIKSILVER, INC.** was finalized, and checks were issued to Plaintiff, **CLAYTON BLEHM.** This all occurred without knowledge of Plaintiff, **CLAYTON BLEHM**, who would not have allowed it to occur, had he known.

52. Plaintiff's reliance on Defendants, **BETSY MCINTYRE** and Co-Defendant, **QUIKSILVER, INC.**, was justified because Plaintiff felt that he had an iron-clad agreement with DC Shoes (which was shortly to be assumed by Defendant, **QUIKSILVER, INC.**). Further, in spite of over 2 years of investigation of DC Shoes, Defendant, **BETSY MCINTYRE**, failed to disclose the results of the investigation to Plaintiff, **CLAYTON BLEHM**, even though he was the former CFO and a Director of DC Shoes, and a thirty percent (30%) shareholder via Plaintiff's corporation, **FDC INVESTMENTS, INC.** Plaintiff, **CLAYTON BLEHM**, was blissfully unaware and his reliance on a set of facts, as he saw them, was justified.

53. Plaintiff, **CLAYTON BLEHM**, was unaware of the falsity of these representations made to him, until just recently, when he became aware that the IRS was going to continue to pursue him for failure of DC Shoes to pay withholding taxes resulting from Plaintiff, **CLAYTON BLEHM'S** reclassification as an employee of DC Shoes, by the IRS.

54. At all times herein mentioned, Defendants, **BETSY MCINTYRE** and **QUIKSILVER, INC.**, and each of them, knowingly, maliciously, willfully and conspiratorially defrauding Plaintiff, **CLAYTON BLEHM** of his rightful share in DC Shoes.

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II.
SECOND CAUSE OF ACTION
CONSPIRACY

55. Plaintiff hereby incorporates paragraphs 1-43 of the ALLEGATIONS COMMON TO ALL CAUSES OF ACTIONS as though set forth in full at this point; and paragraphs 44-54 of THE FIRST CAUSE OF ACTION as though set forth in full at this point..

56. On or about July of 2003, and for the purpose of damaging Plaintiff, CLAYTON BLEHM'S rights (and Plaintiff's corporation, FDC INVESTMENTS, INC.'S rights) as a shareholder in DC Shoes Defendants, and each of them, knowingly, willfully and maliciously, entered into a conspiracy and agreement to deny Plaintiff, CLAYTON BLEHM, the knowledge that Defendant, QUIKSILVER, INC. and/or DC Shoes, had made an agreement with the IRS, through Defendant, BETSY MCINTYRE, to squeeze Plaintiff, CLAYTON BLEHM out of the corporation (DC Shoes) and further to lay the blame revealed in an IRS audit of DC Shoes, at the feet of Plaintiff, CLAYTON BLEHM, a former CFO, Director and thirty percent (30%) shareholder in DC Shoes, doing business as FDC INVESTMENTS, INC.

57. This conspiracy was entered into under the color of authority from Defendant, BETSY MCINTYRE, that she was a disinterested and unprejudiced investigator for a governmental entity, who would act independently, and not act in concert with any parties to this action.

58. The conspiracy was entered into by Defendants in concert with each other. All and each of Defendants knew that silence would be the only representation made to Plaintiff, CLAYTON BLEHM, in order to induce Plaintiff to unwittingly allow the sale of a corporation in which he was a thirty percent (30%) shareholder through his personal services corporation, FDC INVESTMENTS, INC., to Defendant, QUIKSILVER, INC.

59. Pursuant to the above-described conspiracy and agreement, and in furtherance thereof, Defendant, BETSY MCINTYRE, failed to represent to Plaintiff, CLAYTON BLEHM, any of the results of the investigation that was ongoing, and that she was sharing with Co-Defendant, QUIKSILVER, INC. and/or DC Shoes, In failing to make this

representation, Defendants, **BETSY MCINTYRE,** intended to create the impression to Plaintiff, that DC Shoes was the one that would answer for any fault associated with the IRS audit. These representations by Defendant, **BETSY MCINTYRE,** were done when she had a duty to disclose to Plaintiff, **CLAYTON BLEHM,** the results of the audit and that he would be deemed personally liable for over two million dollars ($2,000,000) in tax deficiencies as a result of the audit of DC Shoes.

60. Additionally, Defendant, **BETSY MCINTYRE,** failed to disclose to Plaintiff, **CLAYTON BLEHM,** that the IRS had reached an agreement with Defendant, **QUIKSLIVER, INC.,** and DC Shoes, whereby DC Shoes would be liable under IRC Section 3509 in the sole sum of two-hundred and fifty-thousand dollars ($250,000) in complete satisfaction of any liability discovered in the IRS's audit.

61. In reliance that DC Shoes would be the sole entity liable to the IRS as the result of the audit it was conducting, Plaintiff, **CLAYTON BLEHM,** allowed the sale of DC Shoes to Defendant, **QUIKSILVER, INC.,** accepting, as final payment, checks signed by Defendant, **QUIKSILVER, INC.,** made payable to Plaintiff, **CLAYTON BLEHM.**

62. Plaintiff, **CLAYTON BLEHM,** was unaware of any of the aforementioned transgressions of Defendants, **BETSY MCINTYRE, QUIKSILVER, INC.,** or his former employer, DC Shoes.

63. Defendants, and each of them, did the things herein alleged oppressively and maliciously, and Plaintiff, **CLAYTON BLEHM** is entitled to Punitive or Exemplary Damages in a sum according to proof.

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PRAYER

WHEREFORE, Plaintiff CLAYTON BLEHM, dba FDC INVESTMENTS, INC. prays judgment against Defendants, and each of them, as follows:

FIRST CAUSE OF ACTION—FRAUD

A. For damages for loss of Plaintiff's shares in DC Shoes in the sum of $80,000,000;

B. For Special damages in a sum according to proof;

C. For Exemplary or Punitive damages in a sum according to proof;

D. For costs of suit herein incurred; and

E. For such other further relief as the court may deem proper.

SECOND CAUSE OF ACTION—CONSPIRACY

A. For damages for loss of Plaintiff's shares in DC Shoes in the sum of $80,000,000;

B. For Special damages in a sum according to proof;

C. For Exemplary or Punitive damages in a sum according to proof;

D. For costs of suit herein incurred; and

E. For such other further relief as the court may deem proper.

Dated: 5/27/08

LAW OFFICES OF ROY R. WITHERS

Roy R. Withers, Esq.
Attorney for Clayton Blehm,
dba FDC Investments, Inc.

JUN-26-2008 18:19 P.17

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SUMMONS
(CITACION JUDICIAL)

FOR COURT USE ONLY
(SOLO PARA USO DE LA CORTE)

FILED
CIVIL BUSINESS OFFICE 10
CENTRAL DIVISION

2008 MAY 29 P 3:10

CLERK-SUPERIOR COURT
SAN DIEGO COUNTY, CA

NOTICE TO DEFENDANT:
(AVISO AL DEMANDADO):
BETSY MCINTYRE, an individual; QUIKSILVER, INC., a Delaware Corporation; and DOES 1-50, inclusive

YOU ARE BEING SUED BY PLAINTIFF:
(LO ESTÁ DEMANDANDO EL DEMANDANTE):
CLAYTON BLEHM, dba FDC INVESTMENTS, INC.

You have 30 CALENDAR DAYS after this summons and legal papers are served on you to file a written response at this court and have a copy served on the plaintiff. A letter or phone call will not protect you. Your written response must be in proper legal form if you want the court to hear your case. There may be a court form that you can use for your response. You can find these court forms and more information at the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), your county law library, or the courthouse nearest you. If you cannot pay the filing fee, ask the court clerk for a fee waiver form. If you do not file your response on time, you may lose the case by default, and your wages, money, and property may be taken without further warning from the court.

There are other legal requirements. You may want to call an attorney right away. If you do not know an attorney, you may want to call an attorney referral service. If you cannot afford an attorney, you may be eligible for free legal services from a nonprofit legal services program. You can locate these nonprofit groups at the California Legal Services Web site (www.lawhelpcalifornia.org), the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), or by contacting your local court or county bar association.

Tiene 30 DÍAS DE CALENDARIO después de que le entreguen esta citación y papeles legales para presentar una respuesta por escrito en esta corte y hacer que se entregue una copia al demandante. Una carta o una llamada telefónica no lo protegen. Su respuesta por escrito tiene que estar en formato legal correcto si desea que procesen su caso en la corte. Es posible que haya un formulario que usted pueda usar para su respuesta. Puede encontrar estos formularios de la corte y más información en el Centro de Ayuda de las Cortes de California (www.courtinfo.ca.gov/selfhelp/espanol/), en la biblioteca de leyes de su condado o en la corte que le quede más cerca. Si no puede pagar la cuota de presentación, pida al secretario de la corte que le dé un formulario de exención de pago de cuotas. Si no presenta su respuesta a tiempo, puede perder el caso por incumplimiento y la corte le podrá quitar su sueldo, dinero y bienes sin más advertencia.

Hay otros requisitos legales. Es recomendable que llame a un abogado inmediatamente. Si no conoce a un abogado, puede llamar a un servicio de remisión a abogados. Si no puede pagar a un abogado, es posible que cumpla con los requisitos para obtener servicios legales gratuitos de un programa de servicios legales sin fines de lucro. Puede encontrar estos grupos sin fines de lucro en el sitio web de California Legal Services, (www.lawhelpcalifornia.org), en el Centro de Ayuda de las Cortes de California, (www.courtinfo.ca.gov/selfhelp/espanol/) o poniéndose en contacto con la corte o el colegio de abogados locales.

The name and address of the court is:
(El nombre y dirección de la corte es):
Hall of Justice
220 West Broadway
San Diego, CA 92101

CASE NUMBER:
(Número del Caso):
37-2008-00084761-CU-FR-CTL

The name, address, and telephone number of plaintiff's attorney, or plaintiff without an attorney, is:
(El nombre, la dirección y el número de teléfono del abogado del demandante, o del demandante que no tiene abogado, es):
Roy R. Withers, Esq. (State Bar No. 120779)
2802 Juan Street; Suite 12, San Diego, CA 92110

DATE: MAY 29 2008 Clerk, by [signature] R. Orihuela, Deputy
(Fecha) *(Secretario)* *(Adjunto)*

(For proof of service of this summons, use Proof of Service of Summons (form POS-010).)
(Para prueba de entrega de esta citatión use el formulario Proof of Service of Summons, (POS-010)).

[SEAL]

SUPERIOR COURT SAN DIEGO COUNTY, CA

NOTICE TO THE PERSON SERVED: You are served
1. ☐ as an individual defendant.
2. ☐ as the person sued under the fictitious name of *(specify)*:
3. ☑ on behalf of *(specify)*: Quiksilver, Inc.

under: ☑ CCP 416.10 (corporation) ☐ CCP 416.60 (minor)
☐ CCP 416.20 (defunct corporation) ☐ CCP 416.70 (conservatee)
☐ CCP 416.40 (association or partnership) ☐ CCP 416.90 (authorized person)
☐ other *(specify)*:

4. ☐ by personal delivery on *(date)*:

Page 1 of 1

Form Adopted for Mandatory Use
Judicial Council of California
SUM-100 [Rev. January 1, 2004]

SUMMONS

Code of Civil Procedure §§ 412.20, 465

JUN-26-2008 18:19 P.18

CM-010

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address):
Law Office of Roy R. Withers, Esq.
Roy R. Withers, Esq. (State Bar No. 120779)
2402 Juan Street, Suite 12
San Diego, CA 92110
TELEPHONE NO.: 619-295-1305 FAX NO.: 619-297-9036
ATTORNEY FOR (Name): Clayton Blehm, dba FDC Investments, INC.

FOR COURT USE ONLY

FILED
CIVIL BUSINESS OFFICE 10
CENTRAL DIVISION
2008 MAY 29 P 3:11
CLERK-SUPERIOR COURT
SAN DIEGO COUNTY, CA.

SUPERIOR COURT OF CALIFORNIA, COUNTY OF San Diego
STREET ADDRESS: 220 West Broadway
MAILING ADDRESS:
CITY AND ZIP CODE: San Diego, CA 92101
BRANCH NAME: Hall of Justice

CASE NAME:
Clayton Blehm, dba FDC Investments, Inc. vs. Betsy McIntyre, et al.

CIVIL CASE COVER SHEET

[✓] Unlimited (Amount demanded exceeds $25,000)
[ ] Limited (Amount demanded is $25,000 or less)

Complex Case Designation
[ ] Counter [ ] Joinder
Filed with first appearance by defendant (Cal. Rules of Court, rule 3.402)

CASE NUMBER: 37-2008-00084761-CU-FR-CTL
JUDGE:
DEPT:

Items 1–6 below must be completed (see instructions on page 2).

1. Check one box below for the case type that best describes this case:

Auto Tort
- [ ] Auto (22)
- [ ] Uninsured motorist (46)

Other PI/PD/WD (Personal Injury/Property Damage/Wrongful Death) Tort
- [ ] Asbestos (04)
- [ ] Product liability (24)
- [ ] Medical malpractice (45)
- [ ] Other PI/PD/WD (23)

Non-PI/PD/WD (Other) Tort
- [ ] Business tort/unfair business practice (07)
- [ ] Civil rights (08)
- [ ] Defamation (13)
- [✓] Fraud (16)
- [ ] Intellectual property (19)
- [ ] Professional negligence (25)
- [ ] Other non-PI/PD/WD tort (35)

Employment
- [ ] Wrongful termination (36)
- [ ] Other employment (15)

Contract
- [ ] Breach of contract/warranty (06)
- [ ] Rule 3.740 collections (09)
- [ ] Other collections (09)
- [ ] Insurance coverage (18)
- [ ] Other contract (37)

Real Property
- [ ] Eminent domain/Inverse condemnation (14)
- [ ] Wrongful eviction (33)
- [ ] Other real property (26)

Unlawful Detainer
- [ ] Commercial (31)
- [ ] Residential (32)
- [ ] Drugs (38)

Judicial Review
- [ ] Asset forfeiture (05)
- [ ] Petition re: arbitration award (11)
- [ ] Writ of mandate (02)
- [ ] Other judicial review (39)

Provisionally Complex Civil Litigation (Cal. Rules of Court, rules 3.400–3.403)
- [ ] Antitrust/Trade regulation (03)
- [ ] Construction defect (10)
- [ ] Mass tort (40)
- [ ] Securities litigation (28)
- [ ] Environmental/Toxic tort (30)
- [ ] Insurance coverage claims arising from the above listed provisionally complex case types (41)

Enforcement of Judgment
- [ ] Enforcement of judgment (20)

Miscellaneous Civil Complaint
- [ ] RICO (27)
- [ ] Other complaint (*not specified above*) (42)

Miscellaneous Civil Petition
- [ ] Partnership and corporate governance (21)
- [ ] Other petition (*not specified above*) (43)

2. This case [✓] is [ ] is not complex under rule 3.400 of the California Rules of Court. If the case is complex, mark the factors requiring exceptional judicial management:
   - a. [ ] Large number of separately represented parties
   - b. [✓] Extensive motion practice raising difficult or novel issues that will be time-consuming to resolve
   - c. [✓] Substantial amount of documentary evidence
   - d. [ ] Large number of witnesses
   - e. [✓] Coordination with related actions pending in one or more courts in other counties, states, or countries, or in a federal court
   - f. [✓] Substantial postjudgment judicial supervision
3. Remedies sought (*check all that apply*): a. [✓] monetary b. [ ] nonmonetary; declaratory or injunctive relief c. [✓] punitive
4. Number of causes of action (*specify*): 2
5. This case [ ] is [✓] is not a class action suit.
6. If there are any known related cases, file and serve a notice of related case. (*You may use form CM-015.*)

Date: 5/27/08
Roy R. Withers, Esq.
(TYPE OR PRINT NAME) (SIGNATURE OF PARTY OR ATTORNEY FOR PARTY)

NOTICE

- Plaintiff must file this cover sheet with the first paper filed in the action or proceeding (except small claims cases or cases filed under the Probate Code, Family Code, or Welfare and Institutions Code). (Cal. Rules of Court, rule 3.220.) Failure to file may result in sanctions.
- File this cover sheet in addition to any cover sheet required by local court rule.
- If this case is complex under rule 3.400 et seq. of the California Rules of Court, you must serve a copy of this cover sheet on all other parties to the action or proceeding.
- Unless this is a collections case under rule 3.740 or a complex case, this cover sheet will be used for statistical purposes only.

Form Adopted for Mandatory Use
Judicial Council of California
CM-010 [Rev. July 1, 2007]

CIVIL CASE COVER SHEET

Cal. Rules of Court, rules 2.30, 3.220, 3.400–3.403, 3.740;
Cal. Standards of Judicial Administration, std. 3.10
www.courtinfo.ca.gov

American LegalNet, Inc.
www.FormsWorkflow.com

JUN-26-2008 05:03PM From: ID:IRS COUNSEL SD Page:018 R=100%

CM-010

INSTRUCTIONS ON HOW TO COMPLETE THE COVER SHEET

To Plaintiffs and Others Filing First Papers. *If you are filing a first paper (for example, a complaint) in a civil case, you must* complete and file, along with your first paper, the *Civil Case Cover Sheet* contained on page 1. This information will be used to compile statistics about the types and numbers of cases filed. You must complete items 1 through 6 on the sheet. In item 1, you must check one box for the case type that best describes the case. If the case fits both a general and a more specific type of case listed in item 1, check the more specific one. If the case has multiple causes of action, check the box that best indicates the primary cause of action. To assist you in completing the sheet, examples of the cases that belong under each case type in item 1 are provided below. A cover sheet must be filed only with your initial paper. Failure to file a cover sheet with the first paper filed in a civil case may subject a party, its counsel, or both to sanctions under rules 2.30 and 3.220 of the California Rules of Court.

To Parties in Rule 3.740 Collections Cases. A "collections case" under rule 3.740 is defined as an action for recovery of money owed in a sum stated to be certain that is not more than $25,000, exclusive of interest and attorney's fees, arising from a transaction in which property, services, or money was acquired on credit. A collections case does not include an action seeking the following: (1) tort damages, (2) punitive damages, (3) recovery of real property, (4) recovery of personal property, or (5) a prejudgment writ of attachment. The identification of a case as a rule 3.740 collections case on this form means that it will be exempt from the general time-for-service requirements and case management rules, unless a defendant files a responsive pleading. A rule 3.740 collections case will be subject to the requirements for service and obtaining a judgment in rule 3.740.

To Parties in Complex Cases. In complex cases only, parties must also use the *Civil Case Cover Sheet* to designate whether the case is complex. If a plaintiff believes the case is complex under rule 3.400 of the California Rules of Court, this must be indicated by completing the appropriate boxes in items 1 and 2. If a plaintiff designates a case as complex, the cover sheet must be served with the complaint on all parties to the action. A defendant may file and serve no later than the time of its first appearance a joinder in the plaintiff's designation, a counter-designation that the case is not complex, or, if the plaintiff has made no designation, a designation that the case is complex.

CASE TYPES AND EXAMPLES

Auto Tort
- Auto (22)–Personal Injury/Property Damage/Wrongful Death
- Uninsured Motorist (46) *(if the case involves an uninsured motorist claim subject to arbitration, check this item instead of Auto)*

Other PI/PD/WD (Personal Injury/ Property Damage/Wrongful Death) Tort
- Asbestos (04)
  - Asbestos Property Damage
  - Asbestos Personal Injury/ Wrongful Death
- Product Liability *(not asbestos or toxic/environmental)* (24)
- Medical Malpractice (45)
  - Medical Malpractice– Physicians & Surgeons
  - Other Professional Health Care Malpractice
- Other PI/PD/WD (23)
  - Premises Liability (e.g., slip and fall)
  - Intentional Bodily Injury/PD/WD (e.g., assault, vandalism)
  - Intentional Infliction of Emotional Distress
  - Negligent Infliction of Emotional Distress
  - Other PI/PD/WD

Non-PI/PD/WD (Other) Tort
- Business Tort/Unfair Business Practice (07)
- Civil Rights (e.g., discrimination, false arrest) *(not civil harassment)* (08)
- Defamation (e.g., slander, libel) (13)
- Fraud (16)
- Intellectual Property (19)
- Professional Negligence (25)
  - Legal Malpractice
  - Other Professional Malpractice *(not medical or legal)*
- Other Non-PI/PD/WD Tort (35)

Employment
- Wrongful Termination (36)
- Other Employment (15)

Contract
- Breach of Contract/Warranty (06)
  - Breach of Rental/Lease
    - Contract *(not unlawful detainer or wrongful eviction)*
  - Contract/Warranty Breach–Seller Plaintiff *(not fraud or negligence)*
  - Negligent Breach of Contract/ Warranty
  - Other Breach of Contract/Warranty
- Collections (e.g., money owed, open book accounts) (09)
  - Collection Case–Seller Plaintiff
  - Other Promissory Note/Collections Case
- Insurance Coverage *(not provisionally complex)* (18)
  - Auto Subrogation
  - Other Coverage
- Other Contract (37)
  - Contractual Fraud
  - Other Contract Dispute

Real Property
- Eminent Domain/Inverse Condemnation (14)
- Wrongful Eviction (33)
- Other Real Property (e.g., quiet title) (26)
  - Writ of Possession of Real Property
  - Mortgage Foreclosure
  - Quiet Title
  - Other Real Property *(not eminent domain, landlord/tenant, or foreclosure)*

Unlawful Detainer
- Commercial (31)
- Residential (32)
- Drugs (38) *(if the case involves illegal drugs, check this item; otherwise, report as Commercial or Residential)*

Judicial Review
- Asset Forfeiture (05)
- Petition Re: Arbitration Award (11)
- Writ of Mandate (02)
  - Writ–Administrative Mandamus
  - Writ–Mandamus on Limited Court Case Matter
  - Writ–Other Limited Court Case Review
- Other Judicial Review (39)
  - Review of Health Officer Order
  - Notice of Appeal–Labor Commissioner Appeals

Provisionally Complex Civil Litigation (Cal. Rules of Court Rules 3.400–3.403)
- Antitrust/Trade Regulation (03)
- Construction Defect (10)
- Claims Involving Mass Tort (40)
- Securities Litigation (28)
- Environmental/Toxic Tort (30)
- Insurance Coverage Claims *(arising from provisionally complex case type listed above)* (41)

Enforcement of Judgment
- Enforcement of Judgment (20)
  - Abstract of Judgment (Out of County)
  - Confession of Judgment *(non-domestic relations)*
  - Sister State Judgment
  - Administrative Agency Award *(not unpaid taxes)*
  - Petition/Certification of Entry of Judgment on Unpaid Taxes
  - Other Enforcement of Judgment Case

Miscellaneous Civil Complaint
- RICO (27)
- Other Complaint *(not specified above)* (42)
  - Declaratory Relief Only
  - Injunctive Relief Only *(non-harassment)*
  - Mechanics Lien
  - Other Commercial Complaint Case *(non-tort/non-complex)*
  - Other Civil Complaint *(non-tort/non-complex)*

Miscellaneous Civil Petition
- Partnership and Corporate Governance (21)
- Other Petition *(not specified above)* (43)
  - Civil Harassment
  - Workplace Violence
  - Elder/Dependent Adult Abuse
  - Election Contest
  - Petition for Name Change
  - Petition for Relief From Late Claim
  - Other Civil Petition

JUN-26-2008 18:15 P.01

O'MELVENY & MYERS LLP

610 Newport Center Drive, 17th Floor
Newport Beach, California 92660-6429
TELEPHONE (949) 760-9600
FACSIMILE (949) 823-6994

FAX TRANSMITTAL

DATE & TIME: Thursday, 06/26/08, 5:06 PM		TOTAL NUMBER OF PAGES: 19
TO: Donna Crosby - Internal Revenue Service	FAX NUMBER: 619-557-6581	TELEPHONE NUMBER: 619-744-7109
FROM: Molly J. Magnuson	RETURN FAX NUMBER: (949) 823-6994	TELEPHONE NUMBER: (949) 823-7167

MESSAGE

21st July
Notice of Related case

37-2007-00084250-CU-NP-CTL

IF YOU DID NOT RECEIVE ALL PAGES, PLEASE CALL OUR FAX DEPARTMENT AT (949) 823-7901.

FILE NO.:	551,385-1	RETURN ORIGINAL TO:	Adonna Payne
USER NO.:	13221	EXTENSION:	6975
RESPONSIBLE ATTY NAME:	Molly J. Magnuson	LOCATION:	NB1540
SPECIAL INSTRUCTIONS:			

This document is intended for the exclusive use of the addressee. It may contain privileged, confidential, or non-disclosable information. If you are not the addressee, or someone responsible for delivering this document to the addressee, you may not read, copy, or distribute it. If you have received this document by mistake, please call us promptly and securely dispose of it. Thank you.

SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN DIEGO
STREET ADDRESS: 330 West Broadway
MAILING ADDRESS: 330 West Broadway
CITY AND ZIP CODE: San Diego, CA 92101
BRANCH NAME: Central
TELEPHONE NUMBER: (619) 685-6023

PLAINTIFF(S) / PETITIONER(S): Clayton Blehm

DEFENDANT(S) / RESPONDENT(S): Betsy MCIntyre et.al.

BLEHM VS. MCINTYRE

NOTICE OF CASE ASSIGNMENT	CASE NUMBER: 37-2008-00084761-CU-FR-CTL

Judge: William R. Nevitt, Jr. Department: C-64

COMPLAINT/PETITION FILED: 05/29/2008

CASES ASSIGNED TO THE PROBATE DIVISION ARE NOT REQUIRED TO COMPLY WITH THE CIVIL REQUIREMENTS LISTED BELOW

IT IS THE DUTY OF EACH PLAINTIFF (AND CROSS-COMPLAINANT) TO SERVE A COPY OF THIS NOTICE WITH THE COMPLAINT (AND CROSS-COMPLAINT).

ALL COUNSEL WILL BE EXPECTED TO BE FAMILIAR WITH SUPERIOR COURT RULES WHICH HAVE BEEN PUBLISHED AS DIVISION II, AND WILL BE STRICTLY ENFORCED.

TIME STANDARDS: The following timeframes apply to general civil cases and must be adhered to unless you have requested and been granted an extension of time. General civil consists of all cases except: Small claims appeals, petitions, and unlawful detainers.

COMPLAINTS: Complaints must be served on all named defendants, and a CERTIFICATE OF SERVICE (SDSC CIV-345) filed within 60 days of filing. This is a mandatory document and may not be substituted by the filing of any other document.

DEFENDANT'S APPEARANCE: Defendant must generally appear within 30 days of service of the complaint. (Plaintiff may stipulate to no more than a 15 day extension which must be in writing and filed with the Court.)

DEFAULT: If the defendant has not generally appeared and no extension has been granted, the plaintiff must request default within 45 days of the filing of the Certificate of Service.

THE COURT ENCOURAGES YOU TO CONSIDER UTILIZING VARIOUS ALTERNATIVES TO LITIGATION, INCLUDING MEDIATION AND ARBITRATION, PRIOR TO THE CASE MANAGEMENT CONFERENCE. MEDIATION SERVICES ARE AVAILABLE UNDER THE DISPUTE RESOLUTION PROGRAMS ACT AND OTHER PROVIDERS. SEE ADR INFORMATION PACKET AND STIPULATION.

YOU MAY ALSO BE ORDERED TO PARTICIPATE IN ARBITRATION PURSUANT TO CCP 1141.10 AT THE CASE MANAGEMENT CONFERENCE. THE FEE FOR THESE SERVICES WILL BE PAID BY THE COURT IF ALL PARTIES HAVE APPEARED IN THE CASE AND THE COURT ORDERS THE CASE TO ARBITRATION PURSUANT TO CCP 1141.10. THE CASE MANAGEMENT CONFERENCE WILL BE CANCELLED IF YOU FILE FORM SDSC CIV-359 PRIOR TO THAT HEARING

JS 44 (Rev. 3/99)

CIVIL COVER SHEET

The JS-44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM)

FILED 08 JUL 28 PM 2:45 U.S. DISTRICT COURT SOUTHERN DISTRICT OF CALIFORNIA

I (a) PLAINTIFFS
CLAYTON BLEHM, dba FDC INVESTMENTS, INC.

(b) COUNTY OF RESIDENCE OF FIRST LISTED PLAINTIFF San Diego

(c) ATTORNEYS (FIRM NAME, ADDRESS, AND TELEPHONE NUMBER)
Roy Withers, Esq., Law Offices of Roy R. Withers
2802 Juan Street, Suite 12, San Diego, CA 92110
(619) 295-1305

DEFENDANTS:
BETSY MCINTYRE, an individual; QUICKSILVER, INC., a Delaware Corporation; and DOES1-50, inclusive

COUNTY OF RESIDENCE OF FIRST LISTED DEFENDANT
(IN U.S. PLAINTIFF CASES ONLY)

'08 CV 1358 BTM NLS

ATTORNEYS (IF KNOWN)
Lauren Castaldi, Trial Attorney
Tax Division, U.S. Department of Justice
P.O. Box 683, Ben Franklin Station
Washington, D.C. 20044

II. BASIS OF JURISDICTION (PLACE AN "X" IN ONE BOX ONLY)

☐ 1 U.S. Government Plaintiff
☐ 3 Federal Question U.S. Government Not a Party)
X 2 U.S. Government Defendant
☐ 4 Diversity (Indicate Citizenship of Parties in item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (PLACE AN "X" IN ONE BOX FOR PLAINTIFF AND ONE BOX FOR DEFENDANT) (For Diversity Cases Only)

	PTF	DEF		PTF	DEF
Citizen of This State	☐ 1	☐ 1	Incorporated or Principal Place of Business in This State	☐ 4	☐ 4
Citizen of Another State	☐ 2	☐ 2	Incorporated and Principal Place of Business in Another State	☐ 5	☐ 5
Citizen or Subject of a Foreign Country	☐ 3	☐ 3	Foreign Nation	☐ 6	☐ 6

IV. NATURE OF SUIT (PLACE AN "X" IN ONE BOX ONLY)

CONTRACT
☐ 110 Insurance
☐ 120 Marine
☐ 130 Miller Act
☐ 140 Negotiable Instrument
☐ 150 Recovery of Overpayment & Enforcement Judgment
☐ 151 Medicare Act
☐ 152 Recovery of Defaulted Student Loans (Excl. Veterans)
☐ 153 Recovery of Overpayment of Veteran's Benefits
☐ 160 Stockholders Suits
☐ 190 Other Contract
☐ 195 Contract Product Liability

REAL PROPERTY
☐ 210 Land Condemnation
☐ 220 Foreclosure
☐ 230 Rent Lease & Ejectment
☐ 240 Torts to Land
☐ 245 Tort Product Liability
☐ 290 All Other Real Property

TORTS

PERSONAL INJURY
☐ 310 Airplane
☐ 315 Airplane Product Liability
☐ 320 Assault Libel & Slander
☐ 330 Federal Employers' Liability
☐ 340 Marine
☐ 345 Marine Product Liability
☐ 350 Motor Vehicle
☐ 355 Motor Vehicle Product Liability
☐ 360 Other Personal Injury

PERSONAL INJURY
☐ 362 Personal Injury - Med. Malpractice
☐ 365 Personal Injury Product Liability
☐ 368 Asbestos Personal Injury Product Liability

PERSONAL PROPERTY
☐ 370 Other Fraud
☐ 371 Truth in Lending
☐ 380 Other Personal Property Damage
☐ 385 Property Damage Product Liability

CIVIL RIGHTS
☐ 441 Voting
☐ 442 Employment
☐ 443 Housing/ Accommodations
☐ 444 Welfare
☐ 440 Other Civil Rights

PRISONER PETITIONS
☐ 510 Motions to Vacate Sentence
HABEAS CORPUS:
☐ 530 General
☐ 535 Death Penalty
☐ 540 Mandamus & Other
☐ 550 Civil Rights
☐ 555 Prison Condition

FORFEITURE/PENALTY
☐ 610 Agriculture
☐ 620 Other Food & Drug
☐ 625 Drug Related Seizure of Property 21 USC 881
☐ 630 Liquor Laws
☐ 640 R.R. & Truck
☐ 650 Airline Regs.
☐ 660 Occupational Safety/Health
☐ 690 Other

LABOR
☐ 710 Fair Labor Standards Act
☐ 720 Labor/Mgmt. Relations
☐ 730 Labor/Mgmt. Reporting & Disclosure Act
☐ 740 Railway Labor Act
☐ 790 Other Labor Litigation
☐ 791 Empl. Ret. Inc. Security Act

BANKRUPTCY
☐ 422 Appeal 28 USC 158
☐ 423 Withdrawal 28 USC 157

PROPERTY RIGHTS
☐ 820 Copyrights
☐ 830 Patent
☐ 840 Trademark

SOCIAL SECURITY
☐ 861 HIA (1395ff)
☐ 862 Black Lung (923)
☐ 863 DIWC/DIWW (405(g))
☐ 864 SSID Title XVI
☐ 865 RSI (405(g))

FEDERAL TAX SUITS
X 870 Taxes (U.S. Plaintiff or Defendant
☐ 871 IRS - Third Party 26 USC 7604

OTHER STATUTES
☐ 400 State Reappointment
☐ 410 Antitrust
☐ 430 Banks and Banking
☐ 450 Commerce/ICC Rates/etc.
☐ 460 Deportation
☐ 470 Racketeer influenced and Corrupt Organizations
☐ 810 Selective Service
☐ 850 Securities/Commodities/ Exchange
☐ 875 Customer Challenge 12 USC 3410
☐ 891 Agriculture Acts
☐ 892 Economic Stabilization Act
☐ 893 Environmental Matters
☐ 894 Energy Allocation Act
☐ 895 Freedom of Information Act
☐ 900 Appeal of Fee Determination Under Equal Access to Justice
☐ 950 Constitutionality of State Statutes
☐ 890 Other Statutory Actions

V. ORIGIN (PLACE AN "X" IN ONE BOX ONLY)
☐ 1. Original Proceeding
X 2. Removed from State Court
☐ 3. Remanded from Appellate Court
☐ 4. Reinstated or Reopened
☐ 5. Transferred from another district (specify)
☐ 6. Multidistrict Litigation
☐ 7. Appeal to District Judge from Magistrate Judgment

VI. CAUSE OF ACTION (CITE THE U.S. CIVIL STATUTE UNDER WHICH YOU ARE FILING AND WRITE BRIEF STATEMENT OF CAUSE. DO NOT CITE JURISDICTIONAL STATUTES UNLESS DIVERSITY.)

Removal under 28 U.S.C. §§ 1442

VII. REQUESTED IN COMPLAINT: CHECK IF THIS IS A **CLASS ACTION** ☐ UNDER F.R.C.P. 23 **DEMAND $** CHECK YES only if demanded in complaint: **JURY DEMAND:** ☐ YES X NO

VIII. RELATED CASE(S) IF ANY (See Instructions):
JUDGE ____________ DOCKET NUMBER ____________

DATE July 24, 2008 SIGNATURE OF ATTORNEY OF RECORD [signature]

FOR OFFICE USE ONLY

RECEIPT # ________ AMOUNT ________ APPLYING IFP ________ JUDGE ________ MAG. JUDGE ________

3456949.1